

West Virginia Legislature

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WEST VIRGINIA LEGISLATURE

SENATE JOURNAL

EIGHTIETH LEGISLATURE

FIRST EXTRAORDINARY SESSION, 2011

FOURTH DAY

Charleston, W. Va., Thursday, August 4, 2011

The Senate met at 5 p.m.

(Senator Kessler, Acting President, in the Chair.)

Prayer was offered by the Reverend Dick Corbin, Director of Church Relations, Union Mission of West Virginia, Charleston, West Virginia.

Pending the reading of the Journal of Wednesday, August 3, 2011,

On motion of Senator Edgell, the Journal was approved and the further reading thereof dispensed with.

Senator Kessler (Acting President) presented a communication from the Board of Occupational Therapy, submitting its biennial report for fiscal years 2010 and 2011 as required by chapter thirty, article one, section twelve of the code of West Virginia.

Which communication and report were received and filed with the Clerk.

The Senate proceeded to the fifth order of business.

Senator Unger, from the Select Committee on Redistricting, submitted the following report, which was received:

Your Select Committee on Redistricting has had under consideration

Senate Bill No. 1008 (originating in the Select Committee on Redistricting)-- A Bill to amend and reenact §1-2-2b and §1-2-3 of the Code of West Virginia, 1931, as amended, all relating to the composition of congressional districts; providing for congressional districts; and requiring incidental precinct boundary changes.

And reports the same back with the recommendation that it do pass.

Respectfully submitted,

John R. Unger II,

Chair.

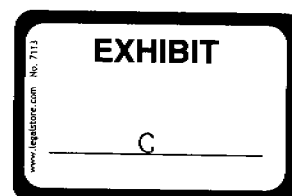
At the request of Senator Unger, unanimous consent being granted, the bill (S. B. No. 1008) contained in the preceding report from the Select Committee on Redistricting was taken up for immediate consideration, read a first time and ordered to second reading.

The Senate proceeded to the twelfth order of business.

Remarks were made by Senator Snyder.

Thereafter, at the request of Senator Stollings, and by unanimous consent, the remarks by Senator Snyder were ordered printed in the Appendix to the Journal.

The Senate next proceeded to the thirteenth order of business.



At the respective requests of Senators Fanning, Tucker and Helmick, unanimous consent being granted, it was ordered that the Journal show had Senators Fanning, Tucker and Helmick been present in the chamber on yesterday, Wednesday, August 3, 2011, each would have voted "yea" on the passage of Engrossed Committee Substitute for Senate Bill No. 1001, Engrossed Committee Substitute for Senate Bill No. 1002, Engrossed Senate Bill No. 1003, Engrossed Senate Bill No. 1004, Engrossed Senate Bill No. 1005 and Engrossed Senate Bill No. 1007.

Senator Unger then moved that the Senate adjourn until tomorrow, Friday, August 5, 2011, at 11 a.m.

The question being on the adoption of Senator Unger's aforesated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Barnes, Beach, Boley, Browning, Edgell, D. Facemire, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler--30.

The nays were: None.

Absent: Chafin, K. Facemyer, Wells and Tomblin (Mr. President)--4.

So, a majority of those present and voting having voted in the affirmative, the Acting President declared Senator Unger's motion had prevailed.

In accordance with the foregoing motion, the Senate adjourned until tomorrow, Friday, August 5, 2011, at 11 a.m.

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FIRST EXTRAORDINARY SESSION, 2011

FIFTH DAY

Charleston, W. Va., Friday, August 5, 2011

The Senate met at 11 a.m.

(Senator Kessler, Acting President, in the Chair.)

Prayer was offered by the Reverend Jerry Kliner, Cross of Grace Lutheran Church, Hurricane, West Virginia.

Pending the reading of the Journal of Thursday, August 4, 2011,

On motion of Senator Plymale, the Journal was approved and the further reading thereof dispensed with. Senator Unger then moved that the Senate recess until 4 p.m. today.

The question being on the adoption of Senator Unger's aforesated motion, and on this question, Senator Unger demanded the yeas and nays.

The roll being taken, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Plymale, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)—31.

The nays were: None.

Absent: Fanning, Wells and Tomblin (Mr. President)—3.

So, a majority of those present and voting having voted in the affirmative, the Acting President declared Senator Unger's motion had prevailed.

In accordance with the foregoing motion, the Senate recessed until 4 p.m. today.

Upon expiration of the recess, the Senate reconvened and proceeded to the ninth order of business.

Senate Bill No. 1008, Reapportioning congressional districts.

On second reading, coming up in regular order, was read a second time.

On motion of Senator Snyder, the following amendment to the bill was reported by the Clerk:

On page two, section three, by striking out all of lines eleven through seventeen and inserting in lieu thereof the following:

First District: Barbour, Brooke, Doddridge, Gilmer, Hancock, Harrison, Jackson, Marion, Marshall, Monongalia, Ohio, Pleasants, Preston, Ritchie, Roane, Taylor, Tyler, Wetzel, Wirt and Wood.

Second District: Berkeley, Braxton, Calhoun, Clay, Grant, Hampshire, Hardy, Jefferson, Kanawha, Lewis, Mineral, Morgan, Pendleton, Putnam, Randolph, Tucker and Upshur.

Following extended discussion,

The question being on the adoption of Senator Snyder's amendment to the bill (S. B. No. 1008), and on

this question, Senator Barnes demanded the yeas and nays.

The roll being taken, the yeas were: Beach, Browning, Edgell, D. Facemire, Laird, Miller, Prezioso, Snyder, Stollings, Unger, Williams, Wills, Yost and Kessler (Acting President)--14.

The nays were: Barnes, Boley, Chafin, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, McCabe, Minard, Nohe, Palumbo, Sypolt and Tucker--17.

Absent: Plymale, Wells and Tomblin (Mr. President)--3.

So, a majority of those present and voting not having voted in the affirmative, the Acting President declared Senator Snyder's amendment to the bill (S. B. No. 1008) rejected.

Thereafter, at the request of Senator Browning, and by unanimous consent, the remarks by Senators Snyder and Unger regarding the adoption of Senator Snyder's amendment to Senate Bill No. 1008 were ordered printed in the Appendix to the Journal.

At the request of Senator Barnes, unanimous consent being granted, the remarks by Senators Hall, McCabe and K. Facemyer regarding the adoption of Senator Snyder's amendment to Senate Bill No. 1008 were ordered printed in the Appendix to the Journal.

The bill (S. B. No. 1008) was then ordered to engrossment and third reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Barnes, Beach, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Minard, Nohe, Palumbo, Prezioso, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)--30.

The nays were: Snyder--1.

Absent: Plymale, Wells and Tomblin (Mr. President)--3.

Engrossed Senate Bill No. 1008 was then read a third time and put upon its passage.

Pending discussion,

The question being "Shall Engrossed Senate Bill No. 1008 pass?"

On the passage of the bill, the yeas were: Barnes, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Minard, Nohe, Palumbo, Prezioso, Stollings, Sypolt, Tucker, Williams, Wills, Yost and Kessler (Acting President)--27.

The nays were: Beach, Miller, Snyder and Unger--4.

Absent: Plymale, Wells and Tomblin (Mr. President)--3.

So, a majority of all the members present and voting having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1008) passed with its title.

Senator Unger moved that the bill take effect from passage.

On this question, the yeas were: Barnes, Boley, Browning, Chafin, Edgell, D. Facemire, K. Facemyer, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Minard, Nohe, Palumbo, Prezioso, Stollings, Sypolt, Tucker, Williams, Wills, Yost and Kessler (Acting President)--27.

The nays were: Beach, Miller, Snyder and Unger--4.

Absent: Plymale, Wells and Tomblin (Mr. President)--3.

So, two thirds of all the members elected to the Senate having voted in the affirmative, the Acting President declared the bill (Eng. S. B. No. 1008) takes effect from passage.

Ordered, That The Clerk communicate to the House of Delegates the action of the Senate and request concurrence therein.

In accordance with rule number forty-four of the Rules of the Senate, Senator Unger will file a written vote explanation as to the passage of Engrossed Senate Bill No. 1008, which vote explanation will be printed in the Appendix to the Journal.

At the request of Senator Browning, and by unanimous consent, the remarks by Senator Unger regarding the passage of Engrossed Senate Bill No. 1008 were ordered printed in the Appendix to the Journal.

At the request of Senator Unger, unanimous consent being granted, it was ordered that the following be printed in the Appendix to the Journal: A transcript of the August 4, 2011, meeting of the Select Committee on Redistricting; Population Summary Report, Plan Components Report and Measures of Compactness of the various congressional plans considered by the Select Committee; and an article by Kenneth C. Martis, Ph.D., Professor of Geography, West Virginia University, entitled "West Virginia Congressional Redistricting, Mason

County Flop Plan".

On motion of Senator Unger, the Senate recessed until 7 p.m. tonight.

Night Session

Upon expiration of the recess, the Senate reconvened and, without objection, returned to the third order of business.

A message from The Clerk of the House of Delegates announced the passage by that body, to take effect from passage, and requested the concurrence of the Senate in the passage of

Eng. House Bill No. 106--A Bill to amend and reenact §1-2-2 and §1-2-2b of the Code of West Virginia, 1931, as amended, all relating to the apportionment of membership of the House of Delegates.

At the request of Senator Unger, and by unanimous consent, reference of the bill to a committee was dispensed with, and it was taken up for immediate consideration, read a first time and ordered to second reading.

On motion of Senator Unger, the constitutional rule requiring a bill to be read on three separate days was suspended by a vote of four fifths of the members present, taken by yeas and nays.

On suspending the constitutional rule, the yeas were: Beach, Boley, Browning, Edgell, D. Facemire, Fanning, Foster, Green, Hall, Helmick, Jenkins, Klempa, Laird, McCabe, Miller, Nohe, Palumbo, Prezioso, Snyder, Stollings, Sypolt, Tucker, Unger, Williams, Wills, Yost and Kessler (Acting President)--27.

The nays were: Barnes--1.

Absent: Chafin, K. Facemyer, Minard, Plymale, Wells and Tomblin (Mr. President)--6.

The bill (Eng. H. B. No. 106) was then read a second time.

On motion of Senator Sypolt, the following amendment to the bill was reported by the Clerk:

In section two, subsection (b), by striking out all of subdivisions (53), (54) and (55) and inserting in lieu thereof three new subdivisions, designated subdivisions (53), (54) and (55), to read as follows:

(53) The Fifty-third Delegate District is entitled to one delegate and consists of:

(A) Grant County;

(B) The following areas of Mineral County:

(i) Blocks 540570105003068, 540570105003069, 540570105003070, 540570105003071, 540570105003072, 540570105003073, 540570105003074, 540570105003075, 540570105003076, 540570105003077, 540570105003078, 540570105003079, 540570105003080, 540570105003081, 540570105003082, 540570105003083, 540570105003088, 540570105003091, 540570105004002, 540570105004003, 540570105004005, 540570105004008, 540570105004010, 540570105004016, 540570105004017, 540570105004018, 540570105004019, 540570105004020, 540570105004021, 540570105004022, 540570105004023, 540570105004024, 540570105004025, 540570105004026, 540570105004027, 540570105004028, 540570105004029, 540570105004030, 540570105004031, 540570105004032, 540570105004033, 540570105004034, 540570105004035, 540570105004036, 540570105004037, 540570105004038, 540570105004039, 540570105004040, 540570105004042, 540570105004045, 540570105004049 and 540570105004050 of voting district 27;

(ii) Voting districts 28, 29, 3, 30 and 33;

(iii) Blocks 540570104003000, 540570104003001, 540570104003002, 540570104003003, 540570104003004, 540570104003005, 540570104003006, 540570104003007, 540570104003008, 540570104003009, 540570104003021, 540570104003022, 540570104003023, 540570104003060, 540570104003061, 540570104003062, 540570104003063, 540570104003064, 540570104003065, 540570104003066, 540570104003067, 540570104003068, 540570104003069, 540570104003070, 540570104003071, 540570104003072, 540570104003073, 540570104003074, 540570104003075, 540570104003076, 540570104003077, 540570104003078, 540570104003079, 540570104003080, 540570104003081, 540570104003082, 540570104003083, 540570104003084, 540570104003085, 540570104003086, 540570104003087, 540570104003088, 540570104003089, 540570104003090, 540570104003091, 540570104003092, 540570104003093, 540570104003094, 540570104003095, 540570104003099, 540570104003105, 540570104003106, 540570104003107, 540570104003108, 540570104003110, 540570104003111, 540570104003112, 540570104003113, 540570104003114, 540570104003115, 540570104003116, 540570104003117, 540570104003118, 540570104003119, 540570104003120, 540570104003121, 540570104003122, 540570104003132, 540570104003133,